

PATENT



DALE JFW
Docket: 1232-4832

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : KONISHI
Serial No. : 10/087,172 Art Unit : 2851
Filed : March 1, 2002 Examiner : W. Dowling
For : PROJECTION TYPE DISPLAY APPARATUS AND IMAGE DISPLAY
SYSTEM

PETITION TO EXPUNGE
ERRONEOUSLY FILED DOCUMENT UNDER 37 CFR § 1.59(b)

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby requests that the certified copies of Japanese Application Nos. 2001-55510, filed February 28, 2001 and 2002-46420, filed February 22, 2002, (the JP '510 and '420 Certified Copies) be expunged from the application file of the above-identified application on the basis that the JP '510 and '420 Certified Copies were erroneously and unintentionally filed therein. Applicant also requests that the JP '510 and '420 Certified Copies be placed in application file of US application Serial No. 10/085,540, filed February 27, 2002, the application to which the JP '510 and '420 Certified Copies correctly belong. The JP '510 and '420 Certified Copies were unintentionally submitted in the instant application and failure to expunge them from the instant application and match them with the correct 10/085,540 applicant, could cause

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irreparable harm to Applicant. A check in the amount of \$130.00 to cover the requisite petition fee accompanies the present petition.

DISCUSSION

On March 1, 2002, the present application was filed with the United States Patent and Trademark Office (USPTO). The original application papers correctly identified and claimed foreign priority under 35 U.S.C. § 119(a) to earlier filed Japanese Application No. 2001-057801, filed March 2, 2001, (the correct JP '801 priority document).

On June 3, 2002, a paper entitled "CLAIM TO CONVENTION PRIORITY" was filed in the instant application. This Claim to Convention Priority paper, however, erroneously identified and incorrectly included the JP '510 and the '420 Certified Copies in lieu of the certified copy of the correct JP '801 priority document. The certified copy of the correct JP '801 priority document was subsequently filed in the incorrect 10/085,540 application on June 7, 2002. A Petition to Expunge the correct JP '801 priority document from the 10/085,540 application is being filed contemporaneously with the present petition.

Pursuant to 37 CFR § 1.59(b), as discussed in Section 724.05 of the Manual of Patent Examining Procedure, at Item III, applicant requests that the JP '510 and '420 Certified Copies (Japanese Application Nos. 2001-55510 and 2002-46420) be expunged from the instant application. Applicant also requests that the JP '510 and '420 Certified Copies, subsequent to being expunged, be matched with the correct 10/085,540 application. Applicant believes that the USPTO can expunge the JP '510 and '420 Certified Copies from the instant application and match them with the 10/085,540 applicant since issuance of a patent in either application is not

currently eminent. Although the Issue Fee has been paid in the instant application, no patent number or issue date has yet been accorded. The 10/085,540 applicant is currently awaiting issuance of a first action on the merits.

Notwithstanding the ultimate outcome of the present Petition and the Petition to Expunge contemporaneously filed in the 10/085,540 application, the present Petition hereby serves to place notice in the official record of the instant application that the certified copy of the foreign priority documents on which foreign priority under 35 U.S.C. § 119(a) has been claimed in the instant application is located in the application file of US application Serial No. 10/085,540, filed February 27, 2002.

CONCLUSION

In view of the above, Applicant hereby requests that the certified copies of Japanese Application No. 2001-55510, filed March 2, 2001, and 2002-46420, filed February 22, 2002, be expunged from the application file. Applicant also requests that the expunged certified copies of Japanese Application Nos. 2001-55510 and 2002-46420 be placed in US application Serial No. 10/085,540, the application to which the JP '510 and '420 Certified Copies correctly belong.

AUTHORIZATION

The Commissioner is hereby authorized to charge any insufficient fees in regard to this paper, or refund any overpayment, to Deposit Account No. 13-4503, Order No. 1232-4832.

Respectfully submitted,
MORGAN & FINNEGAN LLP

Dated: May 25, 2004

By: 

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